

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

*In re: Robert A. Clarin
and Donna J. Clarin,*

Chapter 7
Bky. No. 04-40456

Debtor(s).

**NOTICE OF HEARING AND MOTION
OBJECTING TO CLAIM OF CREDITOR
(CLAIM NO. 11)**

TO: Entities specified in Local Rule 3007-1.

1. Terri A. Georgen-Running, trustee (the "Trustee") of the bankruptcy estate of the above-named Debtor(s) moves the Court for the relief requested below and gives notice of hearing.

2. A hearing will be held on this motion by the Honorable Nancy C. Dreher, Courtroom No. 7 West, 7th Floor - United States Courthouse, 300 S. Fourth Street, Minneapolis, Minnesota on **November 3, 2004 at 10:30 a.m.**, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered not later than October 27, 2004, which is seven (7) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays, or filed and served by mail not later than October 22, 2004, which is ten (10) days before the hearing date, including intermediate Saturdays, Sundays and legal holidays. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, FED. R. BANKR. P. 5005 and Local Rule 1070-1. This is a core proceeding. The petition commencing this Chapter 7 case was filed on February 2, 2004 and is now pending before this court.

5. This motion arises under 11 U.S.C. §§502 and 704, FED. R. BANKR. P. 3002 and 3007 and Local Rule 3007-1. This motion is filed under FED. R. BANKR. P. 9014 and 9014 and Local Rule 9013. The Trustee requests relief with respect to Claim No. 11 filed in the Debtor(s)' case.

6. Industrial Rubber & Supply Co ("Claimant") filed a proof of claim on May 25, 2004, asserting an unsecured non-priority claim in the amount of \$621.17 (the "Claim"). The Claim reflects that the basis for the obligation is for money loaned/services provided/goods sold to Aitkin County Pallet, Inc. (a corporation owned by the Debtor(s)). There is no documentation to establish that the Debtors personally guaranteed the Claim.

7. As a result, the trustee is unable to determine whether the Claim is properly filed in this case.

WHEREFORE, the Trustee respectfully requests that the Court disallow Claim No. 11 and such other relief as may be just and equitable.

Dated: September 29, 2004

GEORGEN-RUNNING LAW FIRM

A Professional Corporation

By: /e/ Terri A. Georgen-Running

Terri A. Georgen-Running (No. 238338)

P.O. Box 16355

St. Paul, MN 55116

(651) 699-6980

(651) 292-1234 *Facsimile*

ATTORNEYS FOR THE TRUSTEE

VERIFICATION. I, Terri A. Georgen-Running, the moving party named in the foregoing notice of hearing and motion declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: September 29, 2004

/e/ Terri A. Georgen-Running
Terri A. Georgen-Running, Trustee

Name of Debtor
ROBERT A CLARIN
DONNA J CLARIN

Case Number
04-40456

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. §503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):
INDUSTRIAL RUBBER & SUPPLY CO

☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

Name and Address where notices should be sent:

INDUSTRIAL RUBBER & SUPPLY CO
1245 PIERCE BUTLER RT
ST PAUL MN 55104

☐ Check box if you have never received any notices from the bankruptcy court in this case.

☐ Check box if the address differs from the address on the envelope sent to you by the court.

Telephone Number: 651-642-1180

Account or other number by which creditor identifies debtor:

Check here if ☐ replaces
this claim ☐ amends a previously filed claim, dated:

1. Basis for Claim

- ☒ Goods sold
☐ Services performed
☐ Money loaned
☐ Personal injury/wrongful death
☐ Taxes
☐ Other

- ☐ Retiree benefits as defined in 11 U.S.C. §1114(a)
- ☐ Wages, salaries, and compensation (fill out below)
Last four digits of SS #: _____
- ☐ Unpaid compensation for services performed
from _____ to _____
(date) (date)

2. Date debt was incurred: August 2003

3. If court judgment, date obtained:

4. Total Amount of Claim at Time Case Filed: \$ 621.17 621.17
(unsecured) (secured) (priority) (Total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.

- ☐ Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim.

- ☐ Check this box if your claim is secured by collateral (including a right of setoff).

Brief Description of Collateral:

☐ Real Estate ☐ Motor Vehicle
☐ Other

Value of Collateral: \$_____

Amount of arrearage and other charges at time case filed
included in secured claim, if any: \$ _____

6. Unsecured Nonpriority Claim \$ 621.17

- ☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.

7. Unsecured Priority Claim.

- ☐
- Check this box if you have an unsecured priority claim

Amount entitled to priority \$ _____

Specify the priority of the claim:

- ☐ Wages, salaries, or commissions (up to \$4,925)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3).
- ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4).
- ☐ Up to \$ 2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6).
- ☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7).
- ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).
- ☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a)().

**Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

8. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. Supporting Documents: *Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.*

10. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

Send claims to:

U.S. Bankruptcy Court
301 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Date 5/21/04

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

For CHAPTER 7, 11 or 12 CASES filed on or after April 1, 2004

1740

RETURNED NOT PAID
BECAUSE

AITKIN COUNTY PALLET, INC.

16809 - 260TH AVE.
MC GRATH, MN 56350

NSF

75-14208919
27 Aug 28 03

PRESENTED TWICE DATE

PAY
TO THE
ORDER OF

\$ 522.62

Five hundred twenty two 62/100

DOLLARS

Security Features
Detailed on Back

[Signature]



FOR

⑈001740⑈ ⑈09191420⑈ 400092086⑈

⑈0000052262⑈

WELLS
FARGO

WELLS FARGO BANK MINNESOTA, N.A.
1801 PARKVIEW DRIVE
SHOREVIEW, MN 55126-5022, MAC N9160-027
PHONE BANK 1-800-869-3557

INDUSTRIAL RUBBER & SUPPLY CO
% MYER FLESHER & CO
1245 PIERCE BUTLER RTE
SAINT PAUL, MN 551041452

ITEMS ENCLOSED: 1

PAGE 1 OF 1 ACCOUNT CHARGED 3514721868

DATE: 09-10-2003

YOUR ACCOUNT HAS BEEN CHARGED FOR THE FOLLOWING ITEM(S) RETURNED UNPAID. ITEM(S) MARKED WITH AN (*) HAVE BEEN REDEPOSITED PER INSTRUCTION AND DO NOT AFFECT YOUR ACCOUNT BALANCE.

	REASON FOR NON PAYMENT	SEQUENCE #	AMOUNT
DEPOSITORY ACCOUNT#: 3514721868			
	NSF 1ST TIME	000400113500	522.62

claim
Bob Powner
612-845-9511
cellular
Talked on
10/1/03

*Sending cashier's
check*

646.17 TOTAL

**Due diligence called him*
5 to 10 days
12/17/03

TOTAL CHARGE: 522.62

TOTAL REDEPOSIT: 0.00

SHOULD YOU HAVE ANY QUESTIONS OR REQUIRE ADDITIONAL INFORMATION, PLEASE CALL THE PHONE NUMBER THAT IS LISTED ON YOUR BANK STATEMENT.

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(651) 642-1180 • FAX (651) 642-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00069355	05/14/03	1

ACP100
AITKIN COUNTY PALLETS
16809 260TH AVE
D MCGRATH MN 56350

T
O

041941
S AITKIN COUNTY PALLETS
H 16809 260TH AVE
I MCGRATH MN 56350
P

T
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TOTAL DUE

177.71

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.
HOU		06/13/03		00041941		05/13/03	041941
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA		
NET 30 DAYS					SPEE-DEE DELIVERY		
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION	
6821 BELT	00	EA	3.0000	3.0000	6.2500	18.75	
6821 BELT	00	EA	20.0000	20.0000	6.9400	138.80	
B-53	00						
R-53 V BELT	00		1.0000	1.0000	13.0000	13.00	
INCOMING FREIGHT							
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM							
Subtotal :						170.55	
TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC CHARGE	TOTAL		
.00	170.55	7.16	.00	.00	177.71		

INDUSTRIAL RUBBER and SUPPLY CO.

A 1 1/2% service charge will be added to Invoices 30 days past due

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(651) 642-1180 • FAX (651) 642-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00069386	05/19/03	1

ACP100
AITKIN COUNTY PALLETS
16809 260TH AVE
D MCGRATH MN 56350

T
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041971
S AITKIN COUNTY PALLETS
H 16809 260TH AVE
I
P MCGRATH MN 56350

T
O

TOTAL DUE

31.36

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.
HOU		06/18/03		00041971		05/16/03	041971
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA		
NET 30 DAYS					SPEE-DEE DELIVERY		
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION	
6821 BELT	00	EA	3.0000	3.0000	6.2500	18.75	
6821 BELT	00		1.0000	1.0000	7.0000	7.00	
INCOMING FREIGHT							
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM							
Subtotal :						25.75	
TAXABLE		NONTAXABLE	FREIGHT	SALES TAX	MISC CHARGE	TOTAL	
.00		25.75	5.61	.00	.00	31.36	

INDUSTRIAL RUBBER and SUPPLY CO.

A 1½% service charge will be added to Invoices 30 days past due

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(651) 642-1180 • FAX (651) 642-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00069847	07/21/03	1

ACP100
AITKIN COUNTY PALLETS
16809 260TH AVE
MCGRATH MN 56350

T
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042465

S AITKIN COUNTY PALLETS
H 16809 260TH AVE
I
P MCGRATH MN 56350

T
O

TOTAL DUE

190.60

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.
HOU		08/20/03		00042465	07/18/03	07/18/03	042465
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA		
NET 30 DAYS		VERBAL DEB			SPEE--DEE DELIVERY		
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION	
5VX710	00	EA	12.0000	12.0000	14.6500	175.80	
5VX710 V BELT							
INCOMING FREIGHT	00		1.0000	1.0000	8.2900	8.29	
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM							
Subtotal :							184.09
TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	MISC CHARGE	TOTAL		
.00	184.09	6.51	.00	.00	190.60		

INDUSTRIAL RUBBER and SUPPLY CO.

A 1 1/2% service charge will be added to Invoices 30 days past due.

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(651) 842-1180 • FAX (651) 842-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00070014	08/05/03	1

ACP100
AITKIN COUNTY PALLETS
16809 260TH AVE
D MCGRATH MN 56350

T
O

042625
S AITKIN COUNTY PALLETS
H 16809 260TH AVE
P MCGRATH MN 56350

T
O

TOTAL DUE

55.89

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.
HOU		09/04/03		00042625	08/04/03	08/04/03	042625
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA		
NET 30 DAYS		VERBAL DEB			UPS GROUND		
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION	
B-105	00	EA	5.0000	5.0000	8.7500	43.75	
B-105 V BELT	00		1.0000	1.0000	4.9400	4.94	
INCOMING FREIGHT							
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM							
Subtotal :						48.69	
TAXABLE		NONTAXABLE	FREIGHT	SALES TAX	MISC CHARGE	TOTAL	
.00		48.69	7.20	.00	.00	55.89	

INDUSTRIAL RUBBER and SUPPLY CO.

A 1½% service charge will be added to Invoices 30 days past due.

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(651) 642-1180 • FAX (651) 642-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00070242	08/29/03	1

ACP100
AITKIN COUNTY PALLETS
16809 260TH AVE
MCGRATH MN 56350

042848
S AITKIN COUNTY PALLETS
H 16809 260TH AVE
P MCGRATH MN 56350

T
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TOTAL DUE 122.95

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.				
HOU		09/28/03		00042848	08/29/03	08/29/03	042848				
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA						
NET 30 DAYS		VERBAL DEB			Will Call						
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION					
C-138	00	EA	3.0000	3.0000	26.4000	79.20					
C-138 V BELT	00		1.0000	1.0000	43.7500	43.75					
INCOMING FREIGHT											
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM											
Subtotal :						122.95					
TAXABLE		NONTAXABLE		FREIGHT		SALES TAX		MISC CHARGE		TOTAL	
.00		122.95		.00		.00		.00		122.95	

VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM

Paid by CHK #1740

**INDUSTRIAL RUBBER and SUPPLY CO.**

1245 PIERCE BUTLER ROUTE • SAINT PAUL, MINNESOTA 55104

(851) 642-1180 • FAX (851) 642-1649

FED TAX I.D. # 41-1383551

INVOICE

INVOICE NO.	INVOICE DATE	PAGE
00070243	08/30/03	1

ACP100

AITKIN COUNTY PALLETS

16809 260TH AVE

D MCGRATH MN 56350

T
O

042849

S AITKIN COUNTY PALLETS

H 16809 260TH AVE

P MCGRATH MN 56350

T
O

TOTAL DUE

42.66

SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO.	ORDER DATE	SHIP DATE	SHIP NO.
HOU		09/29/03		00042849	08/29/03	08/29/03	042849
TERMS DESCRIPTION		CUSTOMER PO NUMBER			SHIP VIA		
NET 30 DAYS		VERBAL DEB			Will Call		
ITEM ID	TX CL	UNIT OF MEASURE	ORDERED	SHIPPED	UNIT PRICE	EXTENSION	
6821 BELT	00	EA	6.0000	6.0000	6.2500	37.50	
6821 BELT	00		1.0000	1.0000	5.1600	5.16	
INCOMING FREIGHT							
VISIT US WWW.INDUSTRIALRUBBERANDSUPPLY.COM							
Subtotal :						42.66	
TAXABLE		NONTAXABLE		FREIGHT		SALES TAX	
.00		42.66		.00		.00	
				MISC CHARGE		TOTAL	
				.00		42.66	

INDUSTRIAL RUBBER and SUPPLY CO.

A 1 1/2% service charge will be added to Invoices 30 days past due.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

*In re: Robert A. Clarin
and Donna J. Clarin,*

Chapter 7
Bky. No. 04-40456

Debtor(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Terri A. Georgen, declare that on the date indicated below, I served the following:

(1) Notice of Hearing and Motion Objecting to Claim of Creditor; (2) Unsworn Declaration for Proof of Service; and (3) Proposed Order

upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at St. Paul, Minnesota, addressed to each of them as follows:

UNITED STATES TRUSTEE
1015 U.S. COURTHOUSE
300 SOUTH FORTH STREET
MINNEAPOLIS, MN 55415

INDUSTRIAL RUBBER & SUPPLY CO
1245 PIERCE BUTLER RT
ST PAUL, MN 55104

ROBERT A. CLARIN
DONNA J. CLARIN
31095 BAUGH ST. NW
PRINCETON, MN 55371

ROBERT KALENDA, ESQ.
919 W. ST. GERMAIN, STE 2000
ST. CLOUD, MN 56301

And I declare under penalty of perjury that the foregoing is true and correct.

Date: September 29, 2004

e/ Terri A. Georgen-Running

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

*In re: Robert A. Clarin
and Donna J. Clarin,*

Chapter 7
Bky. No. 04-40456

Debtor(s).

ORDER

At Minneapolis, Minnesota, _____, 2004

The above-entitled matter came before the Court on the Objection to Claim of Creditor filed by the Trustee. Appearances, if any, were as noted upon the record. Based upon all the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. Claim No. 11 is disallowed.

Judge Nancy C. Dreher
UNITED STATES BANKRUPTCY JUDGE